

1 RAYMOND M. BUDDIE (SBN 121353)
 2 RICK W. GRADY (SBN 235976)
 3 TIMOTHY E. ELLIOTT (SBN 210640)
 PECKAR & ABRAMSON, P.C.
 4 455 Market Street, 21st Floor
 San Francisco, CA 94105
 Telephone: (415) 837-1968
 Facsimile: (415) 837-1320

6 Attorneys for defendants AMERICAN CASUALTY COMPANY OF READING, PA; and NATIONAL
 UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA for the Use and
 Benefit of WEBCOR CONSTRUCTION, INC. dba
 11 WEBCOR BUILDERS; and WEBCOR
 12 CONSTRUCTION, INC. dba WEBCOR
 BUILDERS,

13 Plaintiffs,
 14 vs.

15 DICK/MORGANTI, a joint venture; DICK
 CORPORATION; THE MORGANTI GROUP,
 16 INC.; AMERICAN CASUALTY COMPANY OF
 READING, PA; NATIONAL UNION FIRE
 17 INSURANCE COMPANY OF PITTSBURGH, PA
 18 and DOES 1 through 10, inclusive,

19 Defendants.

20 AND ALL RELATED COUNTER CLAIMS
 21 AND THIRD PARTY COMPLAINTS.

Case No. 3:07-CV-02564-CRB

**STIPULATION AND [PROPOSED] ORDER
 FOR CONSOLIDATION**

LAW OFFICES

Peckar &
 Abramson
 A Professional Corporation

1 STIPULATION AND [PROPOSED] ORDER FOR CONSOLIDATION

Case No.: 3:07-CV-02564-CRB

Case No.: 3:07-CV-07-04180 EDL

1 PERFORMANCE CONTRACTING INC,
 2 Plaintiffs (s),
 3 vs.
 4 DICK/MORGANTI, a California joint venture;
 5 DICK CORPORATION, a Pennsylvania
 corporation; THE MORGANTI GROUP, INC, a
 6 Connecticut corporation; AMERICAN
 CASUALTY COMPANY OR READING,
 PENNSYLVANIA, a Pennsylvania corporation;
 NATIONAL UNION FIRE INSURANCE
 7 COMPANY OF PITTSBURGH, PA, a
 Pennsylvania corporation; CONTINENTAL
 CASUALTY COMPANY, an Illinois corporation;
 8 and DOES 1-20,
 9
 10 Defendant(s).

Case No: 3:07-CV-07-04180 EDL

11
 12 **I. PARTIES AND RELATED CASES**

13 The actions captioned above stem from the construction of the project commonly referred
 14 to as the GSA Federal Building located at 90 Seventh Street, San Francisco, California (the
 15 “Project”). On or about May 15, 2007, Plaintiff Webcor Construction, Inc. dba Webcor
 16 Concrete (“Webcor”), a subcontractor on the Project, filed an action in Case No. CV-02564-CRB
 17 against the general contractor for the Project, Dick/Morganti, a Joint Venture; Dick Corporation;
 18 and the Morganti Group, Inc. (collectively “Dick/Morganti”). Webcor also named as Defendants
 19 American Casualty Company of Reading, PA and National Union Fire Insurance Company of
 20 Pittsburgh, PA (collectively, the “Sureties”), each of which issued Miller Act payment bonds for
 21 the Project (the “Webcor Action”). Subsequently, the Sureties filed a Motion to Stay the Webcor
 22 Action on or about July 20, 2007, and on or about July 27, 2007, the Sureties filed a Third Party
 23 Complaint for Declaratory Relief against some of the other subcontractors on the Project,
 24 including Performance Contracting, Inc. (“PCI”).

25 On or about August 15, 2007, PCI filed a separate action similar to Webcor’s lawsuit in
 26 the U.S.D.C., Northern District of California, San Francisco Division, Case No. 3:07-cv-04180-
 27 EDL (“PCI Action”). PCI named Dick/Morganti, the Sureties, and Continental Casualty
 28 Company as Defendants. PCI also filed in the Webcor Action, in response to the Sureties’

1 Motion to Stay, a Request for Continuance of the hearing on the Motion to Stay, which had been
 2 set for August 24, 2007. PCI's Request also included a request that the PCI Action be
 3 consolidated into the Webcor Action. The Hearing on the Sureties Motion to Stay has been
 4 continued to October 19, 2007. Counsel for the Sureties also represents Dick/Morganti and
 5 Continental Casualty Company, who have not yet appeared in either action.

6 **II. COMMON ISSUES OF LAW AND FACT**

7 Counsel for PCI, Dick/Morganti, the Sureties, Continental Casualty Company, and
 8 Webcor have agreed that the PCI Action and the Webcor Action involve common questions of
 9 law and facts related to disputes arising from the Project, and therefore said actions are proper
 10 for consolidation pursuant to Federal Rule of Civil Procedure 42.

11 **III. STIPULATION TO CONSOLIDATION**

12 Given the common issues of law and facts, as well as the benefits of judicial economy,
 13 PCI, Dick/Morganti, the Sureties, Continental Casualty Company, and Webcor hereby
 14 STIPULATE to consolidation of the PCI Action into the Webcor Action for all purposes.
 15
 16

17 **AGREED TO BY:**

18
 19 Dated: September 17, 2007

DICK/MORGANTI

20 By:
 21

Raymond M. Buddie
 Timothy E. Elliott
 Rick W. Grady
 Attorneys for DICK/MORGANTI

22
 23 Dated: September 17, 2007

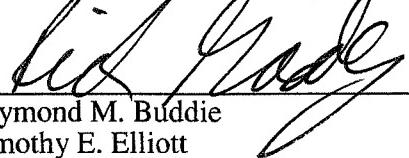
DICK CORPORATION

24 By:
 25

Raymond M. Buddie
 Timothy E. Elliott
 Rick W. Grady
 Attorneys for DICK CORPORATION

1 Dated: September 17, 2007

THE MORGANTI GROUP, INC.

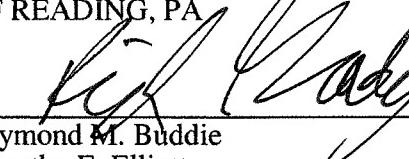


2 By:

3 Raymond M. Buddie
4 Timothy E. Elliott
5 Rick W. Grady
6 Attorneys for THE MORGANTI GROUP,
7 INC.

8 Dated: September 17, 2007

9 AMERICAN CASUALTY COMPANY
10 OF READING, PA



11 By:

12 Raymond M. Buddie
13 Timothy E. Elliott
14 Rick W. Grady
15 Attorneys for AMERICAN CASUALTY
16 COMPANY OF READING, PA

17 Dated: September 17, 2007

18 CONTINENTAL CASUALTY
19 COMPANY

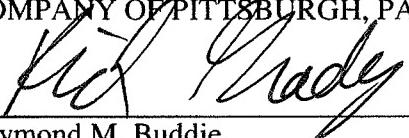


20 By:

21 Counsel for CONTINENTAL
22 CASUALTY COMPANY

23 Dated: September 17, 2007

24 NATIONAL UNION FIRE INSURANCE
25 COMPANY OF PITTSBURGH, PA



26 By:

27 Raymond M. Buddie
28 Timothy E. Elliott
Attorneys for NATIONAL UNION FIRE
INSURANCE COMPANY OF
PITTSBURGH, PA

29 Dated: September 13, 2007

30 PERFORMANCE CONTRACTING, INC.

31 By:

32 J. Morrow Otis
33 Steven L. Iriki
34 Attorneys for PERFORMANCE
35 CONTRACTING, INC.

1 Dated: September 17, 2007

WEBCOR CONSTRUCTION, INC.

2 By:

3 Richard T. Bowles
4 Kenneth G. Jones
5 Attorneys for WEBCOR
6 CONSTRUCTION, INC.

7 **IT IS SO ORDERED.**

8
9 Dated: September 19, 2007

10 By:
11 Honorable Charles E. Breyer

12 Dated: September , 2007

13 By:
14 Honorable Charles E. Breyer

15 IT IS SO ORDERED
16 
17 Judge Charles R. Breyer

